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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/459,141 06/02/95 BERMAN

P P023306

022798 HM12/0810
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EXAMINER

WINKLER, U

ART UNIT

PAPER NUMBER

1648

37

DATE MAILED:

08/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.

08/459,141

Applicant(s)

BERMAN ET AL.

Examiner

Ulrike Winkler, Ph.D.

Art Unit

1648

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 April 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 16 January 2001. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see continuation sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 11, 18, 19, 21, 22 and 23.

Claim(s) objected to: _____.

Claim(s) rejected: 10, 12-17, 20 and 24.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other:

Art Unit: 1648

Entry of the claims in the After Final Amendment filed 16 April 2001 is denied due to confusion of the claim numbering in this complex prosecution. The claims submitted in the After Final Amendment have been numbered 1-30, yet in an earlier Amendment (Paper No. 6) claims 1-9 have been canceled, hence the confusion. The claims should be resubmitted as new claims and should be numbered as claims 31-60, as such the new claims would be entered. Entry of the claims, however, would not obviate the 35 U.S.C. 112, first paragraph rejection. Although the claims have been amended to delete the term "vaccine" the claims are still drawn to a composition that acts as a vaccine i.e. a composition that raises neutralizing antibodies against pathogen challenge *in vivo*. Therefore, the prior rejection will be maintained for reasons of record.

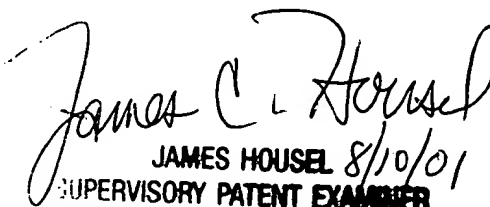
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ulrike Winkler, Ph.D. whose telephone number is 703-308-8294, email ulrike.winkler@uspto.gov. The examiner can normally be reached M-F, 8:30 am -5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached at 703-308-4027.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 or for informal communications use 703-308-4426.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Ulrike Winkler, Ph.D.


JAMES HOUSEL 8/10/01
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600